UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---------------------------------------------------------------------- x

DR. PAUL SELINGER and MARSHA SELINGER,

Plaintiffs,

-against-

THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, in his individual and official capacity as District Attorney, KATHRYN QUINN, in her individual and official capcity as Assitant District Attorney, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10, in their individual and official capacities,

Defendants.

---------------------------------------------------------------------- x

**ANSWER TO COMPLAINT**

08 CV 2096 (RMB)

JURY TRIAL DEMANDED

Defendant City Of New York ("City"), by its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiffs purport to proceed as stated therein.

2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiffs purport to proceed as stated therein.

3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that plaintiff purports to proceed as stated therein.

4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to proceed as stated therein.

5. Denies the allegations set forth in paragraph “5” of the complaint, except admits that plaintiffs purport to proceed as stated therein

6. Denies the allegations set forth in paragraph “6” of the complaint.

7. Denies the allegations set forth in paragraph "7" of the complaint.

8. Denies the allegations set forth in paragraph “8” of the complaint.

9. Denies the allegations set forth in paragraph “9” of the complaint, except admit that plaintiffs’ purport to invoke the jurisdiction of the Court as stated therein.

10. Denies the allegations set forth in paragraph “10” of the complaint, except admits that plaintiffs purports to base venue as stated.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "11" of the complaint, except admits that a document purporting to be a notice of claim was received by the City.

12. Denies the allegations set forth in paragraph "12" of the complaint.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "13" of the complaint.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "14" of the complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the complaint.

16. Denies the allegations set forth in paragraph "16" of the complaint, except admit that the City of New York is a municipal corporation of the State of New York and that the City maintains a Police Department.

17. Denies the allegations set forth in paragraph "17" of the complaint, except admit that Robert Morgenthau and Kathryn Quinn are employees of the New York County District Attorney's Office.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19" of the complaint. Additionally, defendant does not waive any applicable statute of limitations.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "20" of the complaint.

21. Denies the allegations set forth in paragraph "21" of the complaint, except admits that Dr. Selinger worked for an organization known as Omni Medical Care.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "22" of the complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "23" of the complaint.

24. Denies the allegations set forth in paragraph "24" of the complaint.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "26" of the complaint.

27. Denies the allegations set forth in paragraph "27" of the complaint.

28. Denies the allegations set forth in paragraph "28" of the complaint.

29. Denies the allegations set forth in paragraph "29" of the complaint.

30. Denies the allegations set forth in paragraph "30" of the complaint, except admit there was an investigation concerning the individuals and organizations listed in paragraph “30” of the complaint.

31. Denies the allegations set forth in paragraph "31" of the complaint, except admit that there was an investigation to uncover enterprise corruption, insurance fraud, and deceptive insurance billing practices.

32. Denies the allegations set forth in paragraph "32" of the complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "33" of the complaint.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "34" of the complaint.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "35" of the complaint.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "36" of the complaint.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "37" of the complaint.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "38" of the complaint.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "39" of the complaint.

39. [1]Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "39" of the complaint.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "40" of the complaint.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "41" of the complaint.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "42" of the complaint.

43. Denies the allegations set forth in paragraph "43" of the complaint.

44. Denies the allegations set forth in paragraph "44" of the complaint.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "45" of the complaint.

46. Denies the allegations set forth in paragraph "46" of the complaint.

47. Denies the allegations set forth in paragraph "47" of the complaint.

48. Denies the allegations set forth in paragraph "48" of the complaint.

49. Denies the allegations set forth in paragraph "49" of the complaint.

50. Denies the allegations set forth in paragraph "50" of the complaint.

51. Denies the allegations set forth in paragraph "51" of the complaint.

52. Denies the allegations set forth in paragraph "52" of the complaint.

53. Denies the allegations set forth in paragraph "53" of the complaint.

54. Denies the allegations set forth in paragraph "54" of the complaint.

55. Denies the allegations set forth in paragraph "55" of the complaint.

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[1] Plaintiff includes two paragraph 39s.

56. Denies the allegations set forth in paragraph "56" of the complaint.

57. Denies the allegations set forth in paragraph "57" of the complaint.

58. Denies the allegations set forth in paragraph "58" of the complaint.

59. Denies the allegations set forth in paragraph "59" of the complaint.

60. Denies the allegations set forth in paragraph "60" of the complaint, except admit that plaintiff was charged with conspiracy, insurance fraud, enterprise corruption, grand larceny, and other crimes.

61. Denies the allegations set forth in paragraph "61" of the complaint.

62. Denies the allegations set forth in paragraph "62" of the complaint.

63. Denies the allegations set forth in paragraph "63" of the complaint.

64. Denies the allegations set forth in paragraph "64" of the complaint.

65. Denies the allegations set forth in paragraph "65" of the complaint.

66. Denies the allegations set forth in paragraph "66" of the complaint.

67. Denies the allegations set forth in paragraph "67" of the complaint.

68. Denies the allegations set forth in paragraph "68" of the complaint.

69. Denies the allegations set forth in paragraph "69" of the complaint.

70. Denies the allegations set forth in paragraph "70" of the complaint.

71. Denies the allegations set forth in paragraph "71" of the complaint.

72. Denies the allegations set forth in paragraph "72" of the complaint.

73. Denies the allegations set forth in paragraph "73" of the complaint, except admits that plaintiff was indicted by a grand jury.

74. Denies the allegations set forth in paragraph "74" of the complaint, except admits that plaintiff was indicted by a grand jury.

75. Denies the allegations set forth in paragraph "75" of the complaint, except admits that plaintiff was indicted by a grand jury.

76. Denies the allegations set forth in paragraph "76" of the complaint, except admits that plaintiff was indicted by a grand jury.

77. Denies the allegations set forth in paragraph "77" of the complaint.

78. Denies the allegations set forth in paragraph "78" of the complaint.

79. Denies the allegations set forth in paragraph "79" of the complaint.

80. Denies the allegations set forth in paragraph "80" of the complaint.

81. Denies the allegations set forth in paragraph "81" of the complaint.

82. Denies the allegations set forth in paragraph "82" of the complaint.

83. Denies the allegations set forth in paragraph "83" of the complaint.

84. Denies the allegations set forth in paragraph "84" of the complaint.

85. Denies the allegations set forth in paragraph "85" of the complaint.

86. Denies the allegations set forth in paragraph "86" of the complaint.

87. Denies the allegations set forth in paragraph "87" of the complaint.

88. Denies the allegations set forth in paragraph "88" of the complaint.

89. Denies the allegations set forth in paragraph "89" of the complaint.

90. Denies the allegations set forth in paragraph "90" of the complaint.

91. Denies the allegations set forth in paragraph "91" of the complaint.

92. Denies the allegations set forth in paragraph "92" of the complaint.

93. Denies the allegations set forth in paragraph "93" of the complaint.

94. Denies the allegations set forth in paragraph "94" of the complaint.

95. Denies the allegations set forth in paragraph "95" of the complaint.

96. Denies the allegations set forth in paragraph "96" of the complaint.

97. Denies the allegations set forth in paragraph "97" of the complaint.

98. Denies the allegations set forth in paragraph "98" of the complaint.

99. Denies the allegations set forth in paragraph "99" of the complaint.

100. Denies the allegations set forth in paragraph "100" of the complaint, except admits that plaintiff was arrested.

101. Denies the allegations set forth in paragraph "101" of the complaint.

102. Denies the allegations set forth in paragraph "102" of the complaint.

103. Denies the allegations set forth in paragraph "103" of the complaint.

104. Denies the allegations set forth in paragraph "104" of the complaint.

105. Denies the allegations set forth in paragraph "105" of the complaint.

106. Denies the allegations set forth in paragraph "106" of the complaint.

107. Denies the allegations set forth in paragraph "107" of the complaint.

108. Denies the allegations set forth in paragraph "108" of the complaint, except admit that plaintiff was arrested.

109. Denies the allegations set forth in paragraph "109" of the complaint.

110. Denies the allegations set forth in paragraph "110" of the complaint.

111. Denies the allegations set forth in paragraph "111" of the complaint.

112. Denies the allegations set forth in paragraph "112" of the complaint.

113. Denies the allegations set forth in paragraph "113" of the complaint.

114. Denies the allegations set forth in paragraph "114" of the complaint.

115. Denies the allegations set forth in paragraph "115" of the complaint.

116. Denies the allegations set forth in paragraph "116" of the complaint.

117. Denies the allegations set forth in paragraph "1117" of the complaint.

118. Denies the allegations set forth in paragraph "118" of the complaint.

119. Denies the allegations set forth in paragraph "119" of the complaint.

120. Denies the allegations set forth in paragraph "120" of the complaint.

121. Denies the allegations set forth in paragraph "121" of the complaint.

122. Denies the allegations set forth in paragraph "122" of the complaint.

123. Denies the allegations set forth in paragraph "123" of the complaint, except admit that the criminal prosecution of plaintiff was dismissed on or about March 1, 2007.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "124" of the complaint.

125. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "125" of the complaint.

126. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "126" of the complaint.

127. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "127" of the complaint.

128. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "128" of the complaint.

129. Denies the allegations set forth in paragraph "129" of the complaint.

130. In response to the allegations set forth in paragraph “130” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “129”, inclusive of this answer, as is fully set forth herein.

131. Denies the allegations set forth in paragraph "131" of the complaint.

132. Denies the allegations set forth in paragraph "132" of the complaint.

133. Denies the allegations set forth in paragraph "133" of the complaint.

134. Denies the allegations set forth in paragraph "134" of the complaint.

135. Denies the allegations set forth in paragraph "135" of the complaint.

136. Denies the allegations set forth in paragraph "136" of the complaint.

137. Denies the allegations set forth in paragraph "137" of the complaint.

138. Denies the allegations set forth in paragraph "138" of the complaint.

139. Denies the allegations set forth in paragraph "139" of the complaint.

140. Denies the allegations set forth in paragraph "140" of the complaint.

141. Denies the allegations set forth in paragraph "141" of the complaint.

142. Denies the allegations set forth in paragraph "142" of the complaint.

143. In response to the allegations set forth in paragraph “143” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “142”, inclusive of this answer, as is fully set forth herein.

144. Denies the allegations set forth in paragraph "144" of the complaint.

145. Denies the allegations set forth in paragraph "145" of the complaint.

146. Denies the allegations set forth in paragraph "146" of the complaint.

147. Denies the allegations set forth in paragraph "147" of the complaint.

148. Denies the allegations set forth in paragraph "148" of the complaint.

149. Denies the allegations set forth in paragraph "149" of the complaint.

150. Denies the allegations set forth in paragraph "150" of the complaint.

151. Denies the allegations set forth in paragraph "151" of the complaint.

152. Denies the allegations set forth in paragraph "152" of the complaint.

153. Denies the allegations set forth in paragraph "153" of the complaint.

154. Denies the allegations set forth in paragraph "154" of the complaint.

155. Denies the allegations set forth in paragraph "155" of the complaint.

156. In response to the allegations set forth in paragraph “156” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “155”, inclusive of this answer, as is fully set forth herein.

157. Denies the allegations set forth in paragraph "157" of the complaint.

158. Denies the allegations set forth in paragraph "158" of the complaint.

159. Denies the allegations set forth in paragraph "159" of the complaint.

160. Denies the allegations set forth in paragraph "160" of the complaint.

161. Denies the allegations set forth in paragraph "161" of the complaint.

162. Denies the allegations set forth in paragraph "162" of the complaint.

163. Denies the allegations set forth in paragraph "163" of the complaint.

164. Denies the allegations set forth in paragraph "164" of the complaint.

165. Denies the allegations set forth in paragraph "165" of the complaint.

166. Denies the allegations set forth in paragraph "166" of the complaint, except admit that the criminal proceeding against plaintiff was dismissed on or about March 1, 2007.

167. Denies the allegations set forth in paragraph "167" of the complaint.

168. Denies the allegations set forth in paragraph "168" of the complaint.

169. Denies the allegations set forth in paragraph "169" of the complaint.

170. In response to the allegations set forth in paragraph "170" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "170", inclusive of this answer, as is fully set forth herein.

171. Denies the allegations set forth in paragraph "171" of the complaint.

172. Denies the allegations set forth in paragraph "172" of the complaint.

173. Denies the allegations set forth in paragraph "173" of the complaint.

174. Denies the allegations set forth in paragraph "174" of the complaint.

175. Denies the allegations set forth in paragraph "175" of the complaint.

176. Denies the allegations set forth in paragraph "176" of the complaint.

177. Denies the allegations set forth in paragraph "177" of the complaint.

178. Denies the allegations set forth in paragraph "178" of the complaint.

179. Denies the allegations set forth in paragraph "179" of the complaint.

180. Denies the allegations set forth in paragraph "180" of the complaint.

181. Denies the allegations set forth in paragraph "181" of the complaint.

182. Denies the allegations set forth in paragraph "182" of the complaint.

183. Denies the allegations set forth in paragraph "183" of the complaint.

184. Denies the allegations set forth in paragraph "184" of the complaint.

185. Denies the allegations set forth in paragraph "185" of the complaint.

186. Denies the allegations set forth in paragraph "186" of the complaint.

187. Denies the allegations set forth in paragraph "187" of the complaint.

188. In response to the allegations set forth in paragraph "188" of the complaint, defendant repeats and realleges the responses set forth in paragraphs "1" through "187", inclusive of this answer, as is fully set forth herein.

189. Denies the allegations set forth in paragraph "189" of the complaint.

190. Denies the allegations set forth in paragraph "190" of the complaint.

191. Denies the allegations set forth in paragraph "191" of the complaint.

192. Denies the allegations set forth in paragraph "192" of the complaint.

193. Denies the allegations set forth in paragraph "193" of the complaint.

194. Denies the allegations set forth in paragraph "194" of the complaint.

195. Denies the allegations set forth in paragraph "195" of the complaint.

196. Denies the allegations set forth in paragraph "196" of the complaint.

197. Denies the allegations set forth in paragraph "197" of the complaint.

198. The allegations set forth in paragraph “198” of the complaint are not averments of fact warranting a response.

199. Denies the allegations set forth in paragraph "199" of the complaint.

200. Denies the allegations set forth in paragraph "200" of the complaint.

201. Denies the allegations set forth in paragraph "201" of the complaint.

202. Denies the allegations set forth in paragraph "202" of the complaint.

203. Denies the allegations set forth in paragraph "203" of the complaint.

204. Denies the allegations set forth in paragraph "204" of the complaint.

205. Denies the allegations set forth in paragraph "205" of the complaint.

206. Denies the allegations set forth in paragraph "206" of the complaint.

207. Denies the allegations set forth in paragraph "207" of the complaint.

208. In response to the allegations set forth in paragraph “208” of the complaint, defendant repeats and realleges the responses set forth in paragraphs “1” through “207”, inclusive of this answer, as is fully set forth herein.

209. Denies the allegations set forth in paragraph "209" of the complaint.

210. Denies that plaintiffs are entitled to any of the relief requested in the paragraph immediately following paragraph “209” of the complaint, including subparts a-k.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE:**

211. The complaint fails to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE:**

212. Defendant City has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE:**

213. At all times relevant to the acts alleged in the complaint, the duties and functions of the City’s officials entailed the reasonable exercise of their proper and lawful discretion. Therefore, defendant City is entitled to governmental immunity from liability.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:**

214. Any injury alleged to have been sustained resulted, in whole or in part, from plaintiff’s culpable or negligent conduct and was not the proximate result of any act of the defendants.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:**

215. Plaintiff failed to comply with the statutory requirements of New York Municipal Law 50-e and therefore any claims arising under that statute should be summarily dismissed as a matter of law.

**AS AND FOR AN SIXTH AFFIRMATIVE DEFENSE:**

216. Plaintiff provoked any incident.

**AS AND FOR AN SEVENTH AFFIRMATIVE DEFENSE:**

217. Plaintiff cannot obtain punitive damages as against the City of New York.

**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE:**

218. Any purported detention and prosecution of plaintiff was privileged.

**AS AND FOR A NINTH AFFIRMATIVE DEFENSE:**

219. Some or all of plaintiffs' claims are barred by the applicable statute of limitations.

**WHEREFORE,** Defendant City respectfully requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
July 3, 2008

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant City of New York,
100 Church Street
New York, New York 10007
(212) 788-0987

By: /S/ Brian G. Maxey
BRIAN MAXEY (BM 0451)
Assistant Corporation Counsel

To: **BY ECF**
Gregory Calliste, Jr., Esq.
Law Offices of Frederick K. Brewington
50 Clinton Street, Suite 501
Hempstead, NY 11550

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DR. PAUL SELINGER and MARSHA SELINGER,

Plaintiffs,

-against-

THE CITY OF NEW YORK, ROBERT M. MORGENTHAU, in his individual and official capacity as District Attorney, KATHRYN QUINN, in her individual and official capcity as Assitant District Attorney, DETECTIVES and/or POLICE OFFICERS JOHN/JANE DOES 1-10, in their individual and official capacities,

Defendants.

**ANSWER**

***MICHAEL A. CARDOZO***
*Corporation Counsel of the City of New York*
*Attorney for Defendant City of New York*
*100 Church Street, 3-155*
*New York, N.Y. 10007*

*Of Counsel: Brian G. Maxey*
*Tel: (212) 788-0987*
*NYCLIS No.*

*Due and timely service is hereby admitted.*

*New York, N.Y.* ...................................................., *2008* . . .

..........................................................................*Esq.*

*Attorney for*...........................................................................